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Analysis of House Bill 6638 (H-1)

Topic: Neighborhood Areas Improvement Act - Blighted Property Condemnation
Sponsors: Representative Lemmons III
Co-Sponsors: Representatives Tobocman and Drolet
Committee: House Commerce
Senate Transportation
Date Introduced: November 14, 2006
Date of Analysis: December 12, 2006

Position: The Department supports the bill.

Problem/Background: The bill is a companion to House Bill 6639 which amends the Blighted Area Rehabilitation Act (1945 PA 344) that authorizes counties, cities, villages, and townships to adopt plans to prevent blight and to rehabilitate blighted areas and to House Bill 5078 which amends 1911 PA 149 that authorizes the acquisition of property by state agencies and public corporations. The “blighted property” definition contained in House Bill 6638 and House Bill 6639 is the same as in House Bill 5060 (2006 PA 367), which was tie-barred to the passage of Senate Bill 693 (2006 PA 368) and the passage of Ballot Proposal 2006-04, which the voters approved on November 7. Senate Bill 693 did not contain a definition of “blighted property” and because it was signed later, may have superseded House Bill 5060. The bill adds a new detailed definition of “blighted property” and limits acquisition of property by condemnation to “blighted property.” It also specifies that eminent domain proceedings under the Act would have to be instituted and prosecuted in accordance with the State Constitution, state laws, and any relevant local charter.

Description of Bill: House Bill 6638 amends the Neighborhood Areas Improvement Act which authorizes Michigan cities, villages, and townships to designate neighborhood areas for the purposes of planning and carrying out local public improvements for the prevention of blight within such areas. It adds a detailed definition of “blighted property” and limits acquisition by municipalities of property by condemnation to “blighted property.” Like House Bill 6639, House Bill 6638 also specifies that eminent domain proceedings under the Act would have to be instituted and prosecuted in accordance with the State Constitution, state laws, and any relevant local charter relative to condemnation.

Under the bill, “blighted property” would mean any of the following:

- The property has been declared a public nuisance in accordance with a local housing, building, plumbing, fire, or other related code or ordinance.
- The property is an attractive nuisance because of physical condition or use.
- The property is a fire hazard or is otherwise dangerous to the safety of persons or property.

- The property has had the utilities, plumbing, heating, or sewerage disconnected, destroyed, removed, or rendered ineffective for at least one year so that the property is unfit for its intended use.
- The property is tax reverted property owned by a qualified local governmental unit, by a county, or by the state. (The property would retain its "blighted" status under the statute after a sale, lease, or transfer of tax reverted property by a local governmental unit, county, or the state.)
- The property is owned or under the control of a Land Bank Fast Track Authority, whether located within a qualified local governmental unit as that term is defined in the Brownfield Redevelopment Financing Act. (The property would retain its "blighted" status after a sale, lease, or transfer of the property by the Land Bank Fast Track Authority for purposes of the statute.)
- The property is improved real property that has remained vacant for five consecutive years and that is not maintained in accordance with applicable local housing or property maintenance codes or ordinances.
- The property has code violations posing a severe and immediate health or safety threat and has not been substantially rehabilitated within one year after the receipt of notice to rehabilitate from the appropriate code enforcement agency or final determination of any appeal, whichever is later.

For purposes of the Act, the municipality may:

- Acquire fee simple title in real property by purchase, gift, or exchange;
- Acquire title to blighted property as defined in the bill by condemnation;
- Apply that blighted property or other real property to the expressed purpose of this Act.

Summary of Arguments

Pro:

The bill defines blighted property for purposes of the Neighborhood Areas Improvement Act. It will clearly define when a community may condemn property under this Act.

Con:

None (Note: with the decision by the Michigan Supreme Court in *County of Wayne v Hathcock* and the passage of Proposal 2006-04, redevelopment of older properties will be much more difficult. Local units of government are now prohibited from condemning property for economic development purposes.

Fiscal/Economic Impact

- (a) **Department** None.
- (b) **State** None.

(c) Local Government The fiscal impact of land acquisition costs on local units of government from the passage of the bill cannot be determined because the number of purchases and the prices at which these purchases would occur is not known.

Other State Departments: None.

Any Other Pertinent Information: The bill was discharged from committee in the House.

Administrative Rules Impact: There are no Administrative Rules for the Act; however, Section 125.951a of the Act authorizes the local legislative body to designate an administrative agency to be responsible for the administration of the Act and to establish regulations for the guidance of the agency in the effectuation of the purposes of the Act.